

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**FIFTEENTH (15TH) CONGRESS
First Regular Session**

HOUSE BILL NO. 4733

Introduced by HON. FERNANDO V. GONZALEZ

EXPLANATORY NOTE

In 2003, the Congress enacted Republic Act No. 9227, AN ACT GRANTING ADDITIONAL COMPENSATION IN THE FORM OF SPECIAL ALLOWANCES FOR JUSTICES, JUDGES, AND ALL OTHER POSITIONS IN THE JUDICIARY WITH THE EQUIVALENT RANK OF JUSTICES OF THE COURT OF APPEALS AND JUDGES OF THE REGIONAL TRIAL COURT, AND FOR OTHER PURPOSES.

The objective for the passage of the law is based on the declared policy of the State to adopt measures to guarantee the independence of the Judiciary as mandated by the Constitution and public policy, and to ensure the impartial administration of justice, as well as an effective and efficient system worthy of public trust and confidence (*Sec. 1, RA 9227*).

The Constitution grants the Judiciary fiscal autonomy. It further provides that any appropriation for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released (*Sec. 3, Art. VIII, Constitution*).

The special allowance granted by RA 9227 to the justices and judges is mandated to be funded by the legal fees prescribed, imposed, and collected under Rule 141 of the Rules of Court, prior to the promulgation of the amendments under Presidential Decree No. 1949, and from the increases in fees which may be imposed by the Supreme Court. Any deficiency from the funding that may be generated by the Supreme Court and other inferior courts shall be funded from a subsidy to be provided by the National Government in an amount not exceeding One hundred sixty-five million pesos (PhP165,000,000.00) (*Sec. 3, RA 9227*).

Any surplus in the funds generated by the Supreme Court and other inferior courts after payment of the special allowances to the justices and judges may be used by the Chief Justice of the Supreme Court to grant additional allowances exclusively to other court personnel not covered by the benefits granted under RA 9227 (*Sec. 3, ibid.*).

The grant of special allowances to justices and judges under RA 9227 was without prejudice to any allowance already enjoyed by them pursuant to Presidential Decree No. 1949, which created the Judicial Development Fund (*Sec. 4, ibid.*).

The contingent subsidy in the amount not exceeding One hundred sixty-five million pesos (PhP165,000,000.00) as mandated by RA 9227 is a laudable investment in the enhancement of the independence of the Judiciary which the State has endeavored since the passage of PD 1949 in 1984. The contingent subsidy is also an investment in the deferment of increases in legal fees that the Supreme Court is authorized by the Constitution and the law to prescribe and impose upon litigants before the courts, whence the special allowances shall be sourced out.

The Judiciary is a linchpin of economic development through the observance of the rule of law. It is only under a regime of the rule of law that the predictability of outcomes of business transactions can be achieved. The doctrine of predictability of outcomes of business transactions is a major factor which investors, foreign and local, consider in a country's potential as an investment haven. Indeed, the State must sustain its endeavor to uphold and enhance the independence of the Judiciary and the impartial administration of justice through an effective and efficient system worthy of public trust and confidence, if only to ensure the rule of law.

Further, the State must likewise endeavor to attract the best and the brightest in the legal profession into service in the Judiciary by offering a package of compensation or benefits which can approximate the lucrative income that the private practice of law has to offer. Towards this end, the granting of special allowances under RA 9227 is one such good strategy.

However, RA 9227 has a sunset provision, under Section 6 thereof, which gives the impression that the avowed purpose for the passage of the law is only for a limited period of time. Such sunset provision is likewise asymmetrical with the spirit of the law itself which provides that the grant of the special allowance shall be without prejudice to the benefits which the justices and judges already enjoy pursuant to PD 1949. Too, Sec. 6 seemingly goes against the grain of the constitutional provision on fiscal autonomy including the provision which states that x x x any appropriation for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released.

Sec. 6 of RA 9227 provides that in the event of subsequent increases in the salary rates provided under Republic Act No. 6758, as amended, the special allowances granted under RA 9227 x x x shall be considered as an implementation of the said salary increases as may be provided by law and the special allowance equivalent to the salary increase shall be converted as part of the basic salary while any excess in the amount of special allowance not converted as part of the basic salary shall continue to be granted as such. This provision inevitably results in the diminution of the special allowance and its eventual phase out in the course of future salary increases, as what had actually happened in July, 2007. Executive Order No. 611 provided for a ten percent (10%) increase over the basic monthly salaries of civilian government personnel whose positions are covered by the Compensation and Position Classification System under R.A. No. 6758 effective July 1, 2007. When the same was implemented in the judiciary, a percentage of the Special Allowance for the Judiciary (SAJ) being received by incumbent justices, judges and officials with equivalent rank of CA justices or RTC judges were converted as part of the basic salary to correspond to the 10% increase in the basic salary authorized under E.O No. 611. As a result, the monthly SAJ of incumbents were correspondingly decreased by 10%. Furthermore, the conversion of the 10% monthly SAJ to basic salary has in fact decreased the monthly income of incumbent justices, judges and

judiciary officials of equivalent rank, since the 10% increase in their salary, formerly part of their SAJ, is now subject to income taxation.

In the same vein, any salary increase that the National Government shall grant to all government employees will no longer be felt or enjoyed by the justices and judges who were previously entitled to the special allowance. More so, the surplus or savings that may be generated by the shift from the special allowance to the basic salary of the justices and judges may then be disbursed by the Chief Justice in favor of other court personnel not previously enjoying the special allowance, who will necessarily be beneficiaries too of the salary increase; a double windfall indeed. For the justices and judges, the scenario under Sec. 6 is a classic example of "what the right hand gives, the left hand takes away".

Justices of the Court of Appeals and judges of the Regional Trial Courts bear greater responsibilities than some other court personnel or even other national government employees. They, whose lives and limbs are often on-the-line in the performance of their duties, more often than not, have to fend for themselves security-wise. The grant of special allowance will somehow mitigate the extra burden that the justices and judges have to bear.

In light of the foregoing considerations, there is a need to address the asymmetry with which Sec. 6 bears on the avowed, and certainly laudable, purposes for the enactment of RA 9227, which the State must not waver in its advocacy therefor.

May I therefore vigorously urge the passage of this measure.



FERNANDO V. GONZALEZ
Representative, 3rd District, Albay

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HOUSE BILL NO. 4733

Introduced by HON. FERNANDO V. GONZALEZ

AN ACT AMENDING SECTION 6 OF REPUBLIC ACT NUMBERED 9227 [AN ACT GRANTING ADDITIONAL COMPENSATION IN THE FORM OF SPECIAL ALLOWANCES FOR JUSTICES, JUDGES, AND ALL OTHER POSITIONS IN THE JUDICIARY WITH THE EQUIVALENT RANK OF JUSTICES OF THE COURT OF APPEALS AND JUDGES OF THE REGIONAL TRIAL COURT, AND FOR OTHER PURPOSES] AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress Assembled:

1 **SECTION 1.** Declaration of Policy. – It is hereby declared a policy of the
2 State to pursue a continuing endeavor to uphold and enhance the
3 independence of the Judiciary towards the end of institutionalizing the
4 principle of the rule of law as an essential component mechanism for the
5 economic development of the country.

6 **SECTION 2.** Amendatory Provision. – Section 6 of Republic Act
7 Numbered 9227 is hereby amended to read, as follows, to wit:

8 Section 6. Effects of Subsequent Salary Increase. Upon the
9 implementation of any subsequent increase in the salary rates
10 provided under Republic Act No. 6758, as amended, all special
11 allowances granted under this Act to justices, judges and all other
12 positions in the Judiciary with the equivalent rank of justices of the
13 Court of Appeals and judges of the Regional Trial Court as authorized
14 under existing laws and any additional allowance granted to other
15 personnel of the Judiciary shall not be diminished thereby and shall
16 not be considered as an implementation of the said salary increases as
17 may be provided by law.

18 **SECTION 3. Retroactive Effect.** The effectivity of this Act shall retroact
19 to the time of the passage, approval, and effectivity of Republic Act No.
20 9227. Any such allowance of the justices, judges and all other positions in
21 the Judiciary with the equivalent rank of justices of the Court of Appeals and
22 judges of the Regional Trial Court adversely affected or diminished as a
23 result of salary increases subsequent to the passage of that law shall be paid
24 to the concerned personnel of the Judiciary and to be sourced out from the
25 aggregate savings generated by the Supreme Court and all other inferior
26 courts as at the time of the effectivity of this Act, or in case of deficiency
27 thereof, from the savings of the National Government, provided further, that
28 in case these sources of funds shall not be sufficient to cover the special
29 allowance differential, from the General Fund of the National Government
30 through a special appropriation as may be requested by the Department of
31 Budget and Management.

32 Within the period of Six (6) months from the effectivity of this Act,
33 the Supreme Court shall submit to the Department of Budget and
34 Management a report of savings of the Judiciary available for payment of
35 the special allowance differential, and within the same period of time from
36 receipt of the report, the Department of Budget and Management shall
37 release to the Supreme Court such amount as may be available from the
38 savings of the National Government, and the remainder to be covered by a
39 special appropriation that the Department of Budget and Management shall
40 request from the Congress.

41 **SECTION 4. Issuance of Implementing Guidelines.** – The Supreme Court
42 and the Department of Budget and Management shall issue the necessary
43 guidelines for the proper implementation of this Act within Ninety (90) days
44 from the effectivity hereof.

45 **SECTION 5. Repealing Clause.** – All laws, decrees, orders, rules and
46 regulations or parts thereof which are inconsistent with the provisions of this
47 Act are hereby repealed or modified accordingly.

48 **SECTION 6. Separability Clause.** – If any provision of this Act is declared
49 invalid or unconstitutional, the provisions not affected shall continue to be in
50 full force and effect.

51 **SECTION 7. Effectivity Clause.** – This Act shall take effect Fifteen (15)
52 days after its publication in at least Two (2) national newspapers of general
53 circulation.

Approved